

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1130

Introduced by Assembly Member Skinner

February 18, 2011

An act to amend Section ~~17048~~ *17041* of the Revenue and Taxation Code, relating to taxation, *to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, as amended, Skinner. Income taxes: tax ~~tables~~: *rates*.

The Personal Income Tax Law imposes ~~specified taxes based upon gross income, and, among other things, provides for the computation of taxes in accordance with tax tables prescribed by the Franchise Tax Board~~ *a tax upon taxable income at various rates depending upon the amount of that income.*

This bill ~~would make technical, nonsubstantive changes to those provisions~~ *would, for taxable years beginning on or after January 1, 2011, increase the tax rate applicable to taxable income over \$500,000 to 10.3%.*

This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

| If the taxable income is: | The tax is: |
|---------------------------|--|
| Not over \$3,650..... | 1% of the taxable income |
| Over \$3,650 but not | |
| over \$8,650..... | \$36.50 plus 2% of the excess over \$3,650 |
| Over \$8,650 but not | |
| over \$13,650..... | \$136.50 plus 4% of the excess over \$8,650 |
| Over \$13,650 but not | |
| over \$18,950..... | \$336.50 plus 6% of the excess over \$13,650 |
| Over \$18,950 but not | |
| over \$23,950..... | \$654.50 plus 8% of the excess over \$18,950 |
| Over \$23,950..... | \$1,054.50 plus 9.3% of the excess over \$23,950 |

(2) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(3) For taxable years beginning on or after January 1, 2011, the 9.3 percent rate referenced in paragraph (1) shall instead be imposed at the rate of 10.3 percent upon taxable income over five hundred thousand dollars (\$500,000). The provisions of Section 17045 shall not apply to the tax imposed by this paragraph.

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

| If the taxable income is: | The tax is: |
|---------------------------|---|
| Not over \$7,300..... | 1% of the taxable income |
| Over \$7,300 but not | |
| over \$17,300..... | \$73 plus 2% of the excess over \$7,300 |
| Over \$17,300 but not | |
| over \$22,300..... | \$273 plus 4% of the excess over \$17,300 |
| Over \$22,300 but not | |
| over \$27,600..... | \$473 plus 6% of the excess over \$22,300 |
| Over \$27,600 but not | |
| over \$32,600..... | \$791 plus 8% of the excess over \$27,600 |
| Over \$32,600..... | \$1,191 plus 9.3% of the excess over \$32,600 |

(2) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(3) *For taxable years beginning on or after January 1, 2011, the 9.3 percent rate referenced in paragraph (1) shall instead be imposed at the rate of 10.3 percent upon taxable income over five hundred thousand dollars (\$500,000).*

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (c) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1(g) of the Internal Revenue Code, relating to certain unearned income of children taxed as if parent’s income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code is modified, for purposes of this part, by substituting “1 percent” for “10 percent.”

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of

1 the prior calendar year to June of the current calendar year, no
2 later than August 1 of the current calendar year.

3 (2) The Franchise Tax Board shall do both of the following:

4 (A) Compute an inflation adjustment factor by adding 100
5 percent to the percentage change figure that is furnished pursuant
6 to paragraph (1) and dividing the result by 100.

7 (B) Multiply the preceding taxable year income tax brackets by
8 the inflation adjustment factor determined in subparagraph (A)
9 and round off the resulting products to the nearest one dollar (\$1).

10 (i) (1) For purposes of this part, the term “taxable income of a
11 nonresident or part-year resident” includes each of the following:

12 (A) For any part of the taxable year during which the taxpayer
13 was a resident of this state (as defined by Section 17014), all items
14 of gross income and all deductions, regardless of source.

15 (B) For any part of the taxable year during which the taxpayer
16 was not a resident of this state, gross income and deductions
17 derived from sources within this state, determined in accordance
18 with Article 9 of Chapter 3 (commencing with Section 17301) and
19 Chapter 11 (commencing with Section 17951).

20 (2) For purposes of computing “taxable income of a nonresident
21 or part-year resident” under paragraph (1), the amount of any net
22 operating loss sustained in any taxable year during any part of
23 which the taxpayer was not a resident of this state shall be limited
24 to the sum of the following:

25 (A) The amount of the loss attributable to the part of the taxable
26 year in which the taxpayer was a resident.

27 (B) The amount of the loss which, during the part of the taxable
28 year the taxpayer is not a resident, is attributable to California
29 source income and deductions allowable in arriving at taxable
30 income of a nonresident or part-year resident.

31 (3) For purposes of computing “taxable income of a nonresident
32 or part-year resident” under paragraph (1), any carryover items,
33 deferred income, suspended losses, or suspended deductions shall
34 only be includable or allowable to the extent that the carryover
35 item, deferred income, suspended loss, or suspended deduction
36 was derived from sources within this state, calculated as if the
37 nonresident or part-year resident, for the portion of the year he or
38 she was a nonresident, had been a nonresident for all prior years.

39 ~~SECTION 1. Section 17048 of the Revenue and Taxation Code~~
40 ~~is amended to read:~~

- 1 ~~17048. (a) In lieu of the tax imposed under Section 17041,~~
2 ~~individuals with taxable income of such amounts as prescribed by~~
3 ~~the Franchise Tax Board, shall compute their taxes under tax tables~~
4 ~~prescribed by the Franchise Tax Board. The tax tables shall reflect~~
5 ~~the tax imposed under Section 17041 in income progressions of~~
6 ~~not less than one hundred dollars (\$100), taking into account the~~
7 ~~marital or other status of the individual. For purposes of this part,~~
8 ~~the tax imposed by this section shall be treated as tax imposed by~~
9 ~~Section 17041.~~
- 10 ~~(b) Subdivision (a) shall not apply to any of the following:~~
11 ~~(1) An individual to whom subdivision (b) of Section 17504~~
12 ~~(relating to the tax on lump-sum distributions) applies for the~~
13 ~~taxable year.~~
- 14 ~~(2) An individual making a return under Section 443(a)(1) of~~
15 ~~the Internal Revenue Code for a period of less than 12 months on~~
16 ~~account of a change in annual accounting period.~~
- 17 ~~(3) An estate or trust.~~